

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION

CLERK US DISTRICT COURT  
NORTHERN DIST. OF TX  
FILED

2013 SEP -5 PM 3:07

DEPUTY CLERK *EGB*

JIMMY DIAZ, PRO SE,	§	
TDCJ-CID No. 1737301,	§	
Previous TDCJ-CID No. 475593,	§	
Previous TDCJ-CID No. 721195,	§	
Previous TDCJ-CID No. 1201534,	§	
	§	
Plaintiff,	§	
	§	
v.	§	2:13-CV-0111
	§	
MELBA DOCKERY, Mailroom Supervisor,	§	
	§	
Defendant.	§	

**ORDER OF DISMISSAL**

Plaintiff JIMMY DIAZ, acting pro se and while a prisoner incarcerated in the Texas Department of Criminal Justice, Correctional Institutions Division, has filed suit pursuant to Title 42, United States Code, section 1983 complaining against the above-named defendant employed by the Texas Department of Criminal Justice and was granted permission to proceed pursuant to Title 28, United States Code, section 1915.

On August 16, 2013, a Report and Recommendation was issued by the United States Magistrate Judge recommending dismissal of the instant cause with prejudice as frivolous and for failure to state a claim on which relief can be granted, and further recommending that the District Court decline to exercise pendent jurisdiction over plaintiff's Texas Constitutional or state law claims and such claims be dismissed without prejudice.

The period for response has expired, and no objections have been filed by plaintiff.

The Court has made an independent examination of the records in this case and has examined the Magistrate Judge's Report and Recommendation. The Court is of the opinion that the Report and Recommendation of the United States Magistrate Judge should be ADOPTED by the United States District Court.

This Court, therefore, does hereby ADOPT the Report and Recommendation of the United States Magistrate Judge in this case.

IT IS THEREFORE ORDERED that the Civil Rights Complaint by plaintiff JIMMY DIAZ is DISMISSED WITH PREJUDICE AS FRIVOLOUS AND FOR FAILURE TO STATE A CLAIM ON WHICH RELIEF CAN BE GRANTED.

The Court declines to exercise pendant jurisdiction over any Texas Constitutional or state law claims asserted by plaintiff and such claims are DISMISSED WITHOUT PREJUDICE.

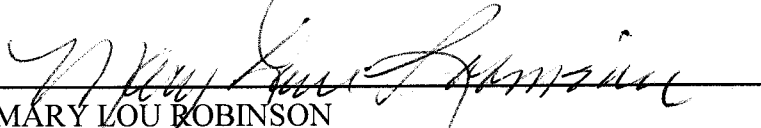
LET JUDGMENT BE ENTERED ACCORDINGLY.

Any pending motions are DENIED.

The Clerk shall send a copy of this Order to plaintiff and to any attorney of record. The Clerk shall also mail copies of this order to TDCJ-Office of the General Counsel, P.O. Box 13084, Austin, TX 78711; and to the Pro Se Clerk at the U.S. District Court for the Eastern District of Texas, Tyler Division.

It is SO ORDERED.

Signed this the 5<sup>th</sup> day of September, 2013.

  
MARY LOU ROBINSON  
United States District Judge